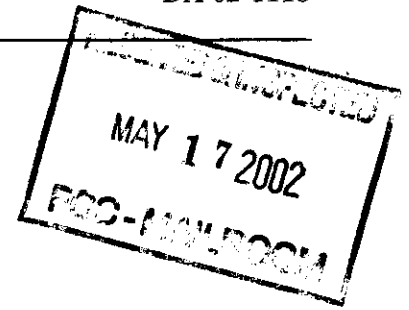


Before the
Federal Communications Commission
Washington, DC 20554



In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Yeshiva Avir Yakov)	File No. SLD-202440
Spring Valley, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: May 10, 2002

Released: May 13, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review filed by Yeshiva Avir Yakov (Yeshiva), Spring Valley, New York.¹ Yeshiva seeks review of a funding decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).² For the reasons set forth below, the Request for Review is denied.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470,⁴ which is posted to the Administrator's website for all

¹ Letter from Charles Bludman, Yeshiva Avir Yakov, to Federal Communications Commission, filed May 15, 2001 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

potential competing service providers to review.⁵ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.⁶ SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. At issue are Funding Request Numbers (FRNs) 457391, 457400, 457411, and 457426, all of which sought discounted internal connections from Communications Data and Sec., Inc. (Comm. Data).⁷ On October 20, 2000, SLD issued a Funding Commitment Decision Letter, granting six of Yeshiva's FRNs, but denying FRNs 457391, 457400, 457411, and 457426 because the "[a]pplicant has not provided sufficient documentation to determine the eligibility of this item."⁸

4. Yeshiva appealed to SLD, asserting that the services it sought support for were clearly described in the application attachments and that it had provided all additional information that was requested.⁹ SLD denied the appeal, finding that "there is evidence to support that our attempts to secure additional information [from Yeshiva] during the [FCC Form 471] review process failed."¹⁰ Yeshiva then filed the pending Request for Review.

5. In its Request for Review, Yeshiva asserts that it received SLD's request for information supporting the four FRNs on July 3, 2000, and that it responded to the request for documentation by letter dated August 14, 2000.¹¹

6. The record before us demonstrates that SLD faxed its document requests twice, first on July 3, 2000, and again on September 15, 2000.¹² In each case, as relevant here, SLD

⁵ 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service First Report and Order* in part and reversing and remanding on unrelated grounds), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000).

⁶ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

⁷ FCC Form 471, Yeshiva Avir Yakov, filed January 18, 2000, at 6-7.

⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charles Bludman, Yeshiva Avir Yakov, dated October 20, 2000 (Funding Commitment Decision Letter).

⁹ Letter from Charles Bludman, Yeshiva Avir Yakov, to Schools and Libraries Division, Universal Service Administrative Company, filed November 15, 2000, at 1.

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Charles Bludman, Yeshiva Avir Yakov, dated April 16, 2001, at 1.

¹¹ Request for Review, at 1.

requested documentation of the amounts requested in each of the appealed FRNs.¹³ The September Request specified that “[y]ou have 7 days to comply with this notice or your application will be processed as is”¹⁴

7. The record also demonstrates that Yeshiva faxed the documentation to SLD with a cover letter dated August 14, 2000.¹⁵ The cover letter in the record bears a date stamp printed by the facsimile machine demonstrating the actual date of transmission, however, and that date is October 20, 2000.¹⁶ We therefore find that Yeshiva did not transmit the requested documentation to SLD until October 20, 2000, the same day that the Funding Commitment Decision Letter was issued and 35 days after the September Request was faxed.¹⁷ Because Yeshiva did not provide SLD with information that supported of the amounts requested in the four FRNs at issue in this appeal in a timely fashion, we deny its Request for Review.

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Yeshiva Avir Yakov, Sprint Valley, New York, on May 15, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹² See Fax Transmission Cover Sheet, from Schools and Libraries Division, to Charles Bludman, Yeshiva Avir Yakov, dated September 15, 2000 (September Request); Fax Transmission Report Form, dated September 15, 2000 (stating that transmission was completed); Fax Transmission Cover Sheet, from Schools and Libraries Division, to Charles Bludman, Yeshiva Avir Yakov, dated July 3, 2000 (July Request); Fax Transmission Report Form, dated July 3, 2000 (stating that transmission was completed).

¹³ See September Request; July Request.

¹⁴ September Request, at 2.

¹⁵ See Letter from Charles Bludman, Yeshiva Avir Yakov, to Stella Blantly, Schools and Libraries Corporation, dated August 14, 2000.

¹⁶ *Id.*

¹⁷ See *supra*, nn. 8, 12.

